tices (Mass., 1921), 130 N. E. 685; *Harland* v. *Territory of Washington,* 3 Wash. Ter. 131. In other cases where jury service is expressly confined to men, and the question has arisen, as in the principal case, whether the right to vote entitles women to perform jury service, the courts have all held that it does not, on the ground that jury service was not incidental to and a part of suffrage. *In re Grilli,* 179 N. Y. Sup. 795; *Harper* v. *State* (Tex. C. C. A., 1921), 234 S. W. 909. See also the *Opinion of the Justices, supra.* The contention was advanced in these cases that to deny women the right to perform jury service under the Nineteenth Amendment was contrary to the Fourteenth Amendment, and the cases of *Strauder* v. *West Virginia,* 100 U. S. 303, and *Ex parte Virginia,* 100 U. S. 339, were cited. The contention should have but little weight, for here the basis for exclusion was sex and not color. As was said in *Strauder* v. *West Virginia, supra,* "we do not deny that a state may prescribe the qualifications of its jurors and in so doing make discriminations. It may confine the selections to males, to freeholders, to citizens, etc. We do not believe the Fourteenth Amendment was ever intended to prohibit that." This *dictum* seems sound, as the performance of jury service is not a civil right, but a political right, which is qualified because its exercise depends upon fitness, which is to be adjudged by the legislature. The cases reviewed indicate that the conflict in the cases is confined to a question of constitutional construction. Where a class is designated from which jurors are to be selected, is the class limited to those who meet its requirements at the time the provision was adopted, or does it include those brought within the class by a subsequent change in the law? The former interpretation would undoubtedly effectuate the specific intent of the framers of the Constitution. But it would seem that where the law has designated electors as the class from which jurors are to be chosen, and women are subsequently made members of that class, they should be entitled to perform jury service.

CONTRACTS—ILLEGALITY—PROVISION THAT ANY ACTION ON THE CONTRACT SHALL BE BROUGHT ONLY IN A CERTAIN PLACE.—The plaintiff brought action in county R on a contract containing a stipulation that any action upon it should be brought in the city of Charlotte, located in county M. Independent of the stipulation, the venue might properly have been laid in either county. The motion of the defendant to have the cause removed to county M was denied. *Gaither* v. *Charlotte Motor Car Co.* (N. C., 1921), 109 S. E. 362.

The great majority of American courts hold invalid and unenforceable provisions in a contract to the effect that any action upon it shall be brought only in a certain place or court. *Nute* v. *Hamilton Insur. Co.,* 6 Gray (Mass.), 174; *Hall* v. *Mutual Insur. Co.,* 6 Gray (Mass.) 185; *Nashua River Paper Co.* v. *Hammermill Paper Co.,* 223 Mass. 8, and note, L. R. A. 1916 D 696; *Shipping Co.* v. *Lehman,* 39 Fed. 704. The court in the leading American case declared that it placed no great reliance upon considerations of public policy. *Nute* v. *Hamilton Insur. Co., supra.* Nevertheless, the rule is usu-

ally supported on the ground that a stipulation which ousts the courts of jurisdiction is against public policy. *Shipping Co.* v. *Lehman, supra; Mutual Reserve Fund L. Assn.* v. *Cleveland Woolen Mills,* 82 Fed. 508. This latter doctrine has been supported loyally. *Insurance Co.* v. *Morse,* 20 Wall. 445; *Jefferson Fire Insur. Co.* v. *Bierce & Sage, Inc.,* 183 Fed. 588; *Meacham* v. *Jamestown, F. & C. R. R. Co.,* 211 N. Y. 346. But its soundness is open to attack. *U. S. Asphalt R. Co.* v. *Trinidad Lake P. Co., 222* Fed. 1006. In a few instances, where the convenience of the parties made particularly reasonable the stipulation that action should be brought only in a certain place, the courts have recognized the circumstances as exceptional and have held the stipulation to be valid. *Mittenthal* v. *Mascagni,* 183 Mass. 19; *Daley* v. *People's Building, etc., Assn.,* 178 Mass. 13. The English courts have frequently enforced such stipulations, refusing to take jurisdiction of a case where the parties had agreed to sue only in a foreign court. *Gienar* v. *Meyer,* 2 H. Bl. 603; *Johnson* v. *Machielsen,* 3 Campb. 44; *Kirchner* v. *Gruban,* [1909] 1 Ch. 413. Accord: *Dulmage* v. *White,* 4 Ont. L. Rep. 121. A few cases in America have held that a stipulation like that of the principal case entitled the party defendant to have the cause removed to the place agreed upon. *Texas Moline Plow Co.* v. *Biggerstaff* (Tex. Civ. App.), 185 S. W. 341; *Merchants' Reciprocal Underwriters* v. *First Natl. Bank* (Texas Civ. App.), 192 S. W. 1098. See also *State* v. *Superior Court,* 61 Wash. 681. In view of the customary liberality of the law regarding the right to contract, it is doubtful whether public policy requires that such stipulations be held invalid.

EVIDENCE—ADMISSIBILITY OF DYING DECLARATION.—In the trial on indictment for murder, the court admitted as a dying declaration, over the objection of the defendant, a statement written by the deceased. The only statement made by the deceased prior to the execution of the writing, indicating that he was in fear of impending death, is found in these words: "If I am going to die, I want to see my minister." Subsequently to making the statement admitted as a dying declaration, he wrote a note to his friends stating that he was feeling fine and hoped to be with them soon. *Held,* the admission of the declaration was error. *State* v. *Brooks,* 186 N. W. 46 (1922, Iowa).

The court in the principal case held that it is for the court to determine the competency of the statement claimed to be a dying declaration and its credibility upon admission is for the jury. That the judge is to pass on the preliminary conditions necessary to the admissibility of the evidence is generally accepted. It follows that, since a consciousness of impending death is essential to its admissibility, the judge must determine whether that condition exists before the declaration is admitted. 2 WIGMORE ON EVIDENCE, 1451. And in most of the states it is held that the decision of the court or judge on this subject is final and conclusive and that with it the jury has nothing more to do. *Tarver* v. *State,* 137 Ala. 29; *Fogg* v. *State,* 81 Ark. 417; *Brennan* v. *People,* 37 Colo. 256; *Williams* v. *State,* 168 Ind. 87; *State*